C.F. Mal — SINGLE BENCH

(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH

003

W.P. NO. 2825 OF 2005

Petitioner

Mohammad Kalam Khan,
S/o Mohammad Habid Khan
Aged about 38 years, Sarpanch
Gram Panchayat – Sindhouri,
Teh. & Distt. Mahasamund
(Chhattisgarh)

Versus

Respondents

1. State of Chhattisgarh, Through its Secretary, Department of Panchayat, Mantralaya, D.K.S. Bhavan, Raipur (CG)

2. Director,
Panchayat, D.K.S. Bhavan,
Raipur (CG)

3. Additional Collector,
Distt. Mahasamund (CG)

4. Hemlal Sahu, S/o Shri Nepal Sahu, aged about 35 years,
R/o Vill. Sindhouri, Teh. &
Distt. Mahasamund (CG)

P.R. No. 2954 of
Presented by Shri S.S. Rajput
dated 29/12/05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2825/05 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	13.7.2005 Shri Sachin Singh Rajput, counsel for the petitioner. Shri Parag Kotecha, Panel Lawyer for respondent No.1 to 3. Shri Ranbir Singh Marhas, counsel for respondent No.4 on Caveat. The petitioner has preferred this petition under Article 226/227 of the Constitution of India being aggrieved by action of respondent No.2 in not deciding the appeal filed by the petitioner. The petitioner's petition is that the petitioner and respondent No.4 contested the election for the post of Sarpanch, Gram Panchayat Sindhouri, Tahsil & District Mahasamund held in the month of January, 2005 in which the petitioner was elected as Sarpanch. However, thereafter respondent No.4 made a complaint under Section 36 of the Panchayat Raj Adhiniyam levelling the allegation that third child was born to the petitioner after the notified date i.e. 26.1.2001. On that an enquiry was conducted and the Collector reached to the conclusion that the facts mentioned in the complaint are true and ordered for removal of the petitioner from the post of Sarpanch in view of Section 36(1)(m) of the Panchayat Raj Adhiniyam. Against the said order the petitioner has preferred an appeal before respondent No.2 along with an application for stay, but that appeal is still pending and that is not being decided by respondent No.2. However, respondent No.2 has rejected the stay application of the petitioner. Counsel for the petitioner submits that the Collector even did not consider the birth certificate issued by the Registrar, Births &	

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आदेश पत्रक

015

मामला क्रमांक ...WP.2355/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Deaths. He further submits that the petitioner is still holding the charge but the respondents are likely to force the petitioner to hand over the charge of Sarpanch.

In the circumstances, since the appeal is already pending it would not be appropriate for the Court to entertain this petition, however, looking to urgency involved in the matter it is expected that respondent No.2 shall decide the appeal of the petitioner itself at the earliest not later than within a period of two months from today.

In view of the above, the petition stands disposed.

Consequently, M.(W.)P. No.2355/05 & and I.A. No.5594/05 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

Roshan

(पीछे देखिये)

10.8.05 18.11.05